$$\frac{\text{18,000 FC (amount of remittance)}}{\text{23,000 FC (equity pool)}} \times \$10{,}000 = \$7{,}826$$

(v) *Computation of section 987 loss by U.S. on remittance.*

$1,800 (dollar value of remittance) − $7,826 (dollar basis in remittance) = ($6,026) (loss on remittance)

(h) *Character and source of section 987 gain or loss.* Section 987 gain or loss is sourced and characterized as provided by section 987 and regulations issued under that section.

Par. 4. Section 1.989(b) is redesignated as § 1.989(b)–1 and the language "(temporary)" is removed from the section heading.

Par. 5. New § 1.989(c)–1 is added to read as follows:

§ 1.989(c)–1 Transition rules for certain branches of United States persons using a net worth method of accounting for taxable years beginning before January 1, 1987.

(a) *Applicability*—(1) *In general.* This section applies to qualified business units (QBU) branches of United States persons, whose functional currency (as defined in section 985 of the Code and regulations issued thereunder) is other than the United States dollar (dollar) and that used a net worth method of accounting for their last taxable year beginning before January 1, 1987. Generally, a net worth method of accounting is any method of accounting under which the taxpayer calculates the taxable income of a QBU branch based on the net change in the dollar value of the QBU branch's equity over the course of a taxable year, taking into account any remittance made during the year. QBU branch equity is the excess of QBU branch assets over QBU branch liabilities. For all taxable years beginning after December 31, 1986, such QBU branches must use the profit and loss method of accounting as described in section 987, except to the extent otherwise provided in regulations under section 985 or any other provision of the Code.

(2) *Insolvent QBU branches.* A taxpayer may apply the principles of this section to a QBU branch that used a net worth method of accounting for its last taxable year beginning before January 1, 1987, whose $E pool (as defined in paragraph (d)(3)(i) of this section) is negative. For taxable years beginning on or after October 25, 1991, the principles of this section shall apply to insolvent QBU branches.

(b) *General rules.* For the general rules, see § 1.987–5(b).

(c) *Determining the pool(s) from which a remittance is made.* To determine from which pool(s) a remittance is made, see § 1.987–5(c).

(d) *Calculation of Section 987 gain or loss*—(1) *In general.* See § 1.987–5(d)(1) for rules to make this calculation.

(2) *Step 1—Calculate the amount of the functional currency pools.* For calculation of the amount of the functional currency pools, see § 1.987–5(d)(2).

(3) *Step 2—Calculate the dollar basis pools*—(i) *Dollar basis of the EQ pool*—(A) *Beginning dollar basis.* The beginning dollar basis of the EQ pool (hereinafter referred to as the $E pool) equals the final net worth of the QBU branch. Final net worth of the QBU branch equals the QBU branch's equity value (assets less liabilities) measured in dollars at the end of the taxpayer's last taxable year beginning before January 1, 1987, determined on the basis of the QBU branch's books and records as adjusted according to United States tax principles.

(B) *Adjusting the $E pool.* For adjustments to be made to the $E pool, see § 1.987–5(d)(3)(i)(B).

(ii) *Dollar basis of the post-86 profits pool.* To calculate the dollar basis of the post-86 profits pool, see § 1.987–5(d)(3)(ii).

(iii) *Dollar basis of the equity pool.* To calculate the dollar basis of the equity pool, see § 1.987–5(d)(3)(iii).

(4) *Step 3—Calculation of the dollar basis of a remittance.* To calculate the dollar basis of the EQ remitted, see § 1.987–5(d)(4).

(5) *Step 4—Calculation of the section 987 gain or loss on a remittance.* To calculate 987 gain or loss determined on a remittance, see § 1.987–5(d)(5).

(e) *Functional currency adjusted basis of QBU branch assets acquired in taxable years beginning before January 1, 1987.* To determine the functional currency adjusted basis of QBU branch assets acquired in taxable years beginning before January 1, 1987, see § 1.987–5(e).

(f) *Functional currency amount of QBU branch liabilities acquired in taxable years beginning before January 1, 1987.* To determine the functional currency amount of QBU branch liabilities acquired in taxable years beginning before January 1, 1987, see § 1.987–5(f).

Par. 6. Sections 1.989(c)–0T and 1.989(c)–1T are removed as of October 25, 1991.

Dated: August 16, 1991.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved:

Michael J. Graetz,

Acting Assistant Secretary of the Treasury.

[FR Doc. 91–22856 filed 9–24–91; 8:45 am]

BILLING CODE 4830–01–M

POSTAL SERVICE

39 CFR Part 111

Building Construction Materials

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Section 124.7 is added to the Domestic Mail Manual to specify conditions under which building construction materials will not be mailable.

EFFECTIVE DATE: September 25, 1991.

ADDRESSES: Written comments should be mailed or delivered to the Director, Office of Classification and Rates Administration, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–5903. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8430 at the above address.

FOR FURTHER INFORMATION CONTACT: Martin L. Cohen, (202) 268–5169.

SUPPLEMENTARY INFORMATION: Current law requires, as a condition of mailability, that the item "[w]hile in the custody of the Postal Service is not likely to become damaged itself, to damage other pieces of mail, to cause injury to Postal Service employees or to damage Postal Service property." Domestic Mail Classification Schedule section § 6000.010(b). Postal regulations implement this rule, and state that "[t]he basic premise of the postal mailability statutes is that anything 'which may kill or injure another, or injure the mails or other property' is nonmailable." Domestic Mail Manual § 124.11.

The Postal Service has found that certain mailings of building construction materials run afoul of these mailability requirements, not necessarily because of the particular characteristics of the material mailed but because of the weight and number of individual pieces. These mailings, which consist of bulk mailings of matter such as bricks, stone, or cement, lumber, insulation material, etc., are often intended to supply a construction project and, when assembled, will constitute a building or series of buildings. One recent example consisted of more than 8,000 packages of insulation, each weighing more than 40 pounds, or a total of more than 320,000 pounds.

This matter may not comply with the mailability criteria described above, particularly when entered in large quantities. Depending upon the means used for the processing and transportation of mail in an area and the size of postal facilities, the acceptance of bulk quantities of mail may impede the flow of mail in the transportation used by the Postal Service as well as in the Postal Service distribution system. This would delay other mail matter.

Large volume mailings also may create storage and security problems for the Postal Service, particularly where facilities are not of adequate size to house the entire shipment. In these instances, exposure to the elements may cause damage to the matter mailed, particularly if it is packaged in material that can break or be punctured. Finally, the mailings may create a hazard to postal employees, due to the sheer weight and number of packages involved and, at times, the nature of the matter mailed (*e.g.*, certain insulation materials, and the health hazards associated with them, particularly where the packaging may be broken or punctured).

Accordingly, while the general standard established in current rules is sufficient to reject these materials as nonmailable, the Postal Service has determined to amend its regulations to provide more explicit guidance concerning the mailability of building construction materials. The new rule provides that these materials, whether mailed in bulk at one time or in separate mailings, may be found to be nonmailable if they are likely to impede the transportation or distribution of mail matter; create storage or security problems; create hazards for postal employees; or if the acceptance of the materials may for other reasons create a likelihood of damage or harm to the mails, postal employees, or property.

Furthermore, the Postal Service has determined that the public interest requires that this rule be made effective immediately and without prior public comment. The efficient and timely flow of mail is crucial to the public. The need to minimize the hazards faced by postal employees further dictates against any delay in implementation. The Postal Service also finds that the immediate adoption of this rule does not unfairly prejudice the shippers of building construction materials. There is generally other transportation available for this matter. Finally, since the new regulation is consistent with and clarifies existing rules, there is not the same need for comment and delay in implementation as there would be with a new rule that creates new substantive restrictions. Nevertheless, the Postal Service invites public comments concerning the new rule. These should be submitted within 30 days from the date of this notice to the address set forth above. At the end of this period, the Postal Service will evaluate the comments and consider whether the new rule should be revised.

The Postal Service adopts the following amendment to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Section 124.7 is added to the Domestic Mail Manual and reads as follows:

124.7 Building Construction Materials.

Building construction materials are not mailable if their acceptance and processing is likely to result in damage or injury to mail, postal employees, or postal property. Factors that may be considered include, but are not limited to: Potential storage problems at the facilities which may handle and store the matter; whether the volume of materials is likely to impede the flow of mail in the mail transportation system or in the mail distribution system of the Postal Service; whether the volume of materials may create a security problem; and whether the processing of the matter may create a safety hazard for postal employees.

A transmittal letter making this change in the Domestic Mail Manual will be published and transmitted automatically to subscribers. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 91–23097 Filed 9–24–91; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–4012–2]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list.

This action adds the White Chemical Corp. site in Newark, New Jersey, to the NPL. The identification of a site for the NPL is intended primarily to guide the Environmental Protection Agency ("EPA") in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be October 25, 1991. CERCLA section 305 provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha*, 462 U.S. 919, 103 S. Ct. 2764 (1983), cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives. If any action by Congress calls the effective date of this regulation into question, the Agency will publish a notice of clarification in the **Federal Register.**

ADDRESSES: Addresses for the Headquarters and Region 2 dockets are provided below. For further details on

what these dockets contain, see the Public Comment Section, section I, of the **SUPPLEMENTARY INFORMATION** portion of this preamble.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, OS–245, Waterside Mall, 401 M Street, SW., Washington, DC 20460, 202/260–3046.

Ben Conetta, Region 2, 26 Federal Plaza, 7th Floor, room 740, New York, NY 10278, 212/264–6696.

FOR FURTHER INFORMATION CONTACT: Agnes Ortiz, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (OS–230), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460, or the Superfund Hotline, Phone (800) 424–9346 or (703) 920–9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 ("CERCLA" or "the Act") in response to the dangers of uncontrolled or abandoned hazardous substance sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99–499, stat. 1613 *et seq*. To implement CERCLA, the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions, most recently on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action." Removal action involves cleanup or other actions that are often taken in response to emergency conditions or on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release (CERCLA section 101(24)). Mechanisms for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") are included in the NCP at 40 CFR 300.425(c) (55 FR 8845, March 8, 1990). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which EPA promulgated as appendix A of 40 CFR part 300, July 16, 1982 and amended on December 14, 1990 (55 FR 51532).

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. See 40 CFR 300.425(c)(2).

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of an HRS score, if all of the following occur:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority (available only at NPL sites) than to use its removal authority to respond to the release.

Based on these criteria, and pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA prepares a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of 40 CFR part 300, is the NPL.

An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on February 11, 1991 (56 FR 5598). The Agency also has proposed adding new sites to the NPL, most recently on July 29, 1991 (56 FR 35840).

The NPL includes two sections, one of sites evaluated and cleaned up by EPA (the "EPA section"), and one of sites being addressed by other Federal agencies (the "Federal facilities section"). Under Executive Order 12580 and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score; EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal facilities section includes those facilities at which EPA is not the lead agency.

This rule results in an EPA section of 1,069 sites and a Federal facilities section of 116 sites, for a total of 1,185 sites on the NPL. An additional 22 sites are proposed to the NPL, 19 in the EPA section and 3 in the Federal facilities section.

EPA may delete sites from the NPL where no further response is appropriate, as explained in the NCP at 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 38 sites from the final NPL, most recently on September 10, 1991 (56 FR 46121). In addition, 12 sites in the EPA section are in the construction completion category (56 FR 5634, February 11, 1991) and 13 others are awaiting final documentation before they can be formally placed in the construction completion category. The construction completion category includes sites awaiting deletion, sites awaiting first 5-year review after completion of the remedial action, and sites undergoing long-term remedial actions at which the construction phase of the action is complete.

Thus, a total of 63 sites have been deleted, placed in the construction completion category, or are awaiting final documentation before being placed in the construction completion category.

Pursuant to the NCP at 40 CFR 300.425(c)(3), this notice adds one site to the NPL.

Information Available to the Public

The Headquarters and Region 2 public dockets for the NPL (see **ADDRESSES** portion of this notice) contain documents relating to the decision to add the White Chemical Corp. site in Newark, New Jersey, to the NPL. Both dockets contain the public health advisory issued by ATSDR and EPA memoranda supporting the findings that the release poses a significant threat to public health and that it would be more cost-effective to use remedial rather than removal authorities at the site. They also contain the one comment letter received following proposal. The dockets are available for viewing, by appointment only. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday excluding Federal holidays. The hours of operation for the Region 2 docket are from 8 a.m. to 5

p.m., Monday through Friday excluding Federal holidays.

An informal written request, rather than a formal request under the Freedom of Information Act (FOIA), should be the ordinary procedure for obtaining copies of any of these documents.

II. Purpose and Implementation of the NPL

Purpose

The legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d Sess. 60 (1980)) states the primary purpose of the NPL:

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation. Finally, listing a site may, to the extent that potentially responsible parties are identifiable at the time of listing, serve as notice to such parties that the Agency may initiate CERCLA-financed remedial action.

Implementation

The NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990) limits the expenditure of Trust Fund monies for remedial actions to sites on the NPL. However, EPA may take enforcement actions under CERCLA or other applicable statutes against potential responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the main focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site whether listed or not, that meets the criteria of the NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990). Information on removals is available from the Superfund Hotline.

EPA's policy is to pursue cleanup of NPL sites using all the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities, proceed directly with CERCLA-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. These determinations will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

The ranking of sites by HRS scores does not determine the sequence in which EPA funds remedial response actions, since the information collected to develop HRS scores is not sufficient in itself to determine either the extent of contamination or the appropriate response for a particular site. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it was already underway. In addition, certain sites, such as the White Chemical Corp. site, are based on other criteria. Thus, EPA relies on further, more detailed studies including the Remedial Investigation/Feasibility Study (RI/FS) that typically follows listing.

The RI/FS determines the nature and extent of the threat presented by the contamination (40 CFR 300.430(a)(2) (55 FR 8846, March 8, 1990). It also takes into account the amount of contaminants in the environment, the risk to affected populations and environment, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart E of the NCP (55 FR 8839, March 8, 1990). After conducting these additional studies, EPA may conclude that it is not desirable to initiate a CERCLA remedial action at some sites on the NPL because of more pressing needs at other sites, or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant remedial action.

III. Contents of This NPL Final Rule

The White Chemical Corp. (WCC) site, in Newark, Essex County, New Jersey, is being added to the NPL on the basis of section 425(c)(3) of the NCP, 40 CFR 300.425(c)(3) (55 FR 8845, March 8, 1990). It was proposed to the NPL on May 9, 1991 (56 FR 21460). A description of the site and EPA's basis for listing it were included in that proposal.

The comment period ended on June 10, 1991 and one comment was received. In that comment, Mr. John Scagnelli, on behalf of AZS Corporation, asked that the docket be amended to reflect: (1) That the bankruptcy court dismissed the WCC bankruptcy petition and removed WCC from bankruptcy protection; (2) that EPA issued a unilateral order requiring WCC to vacate the site and suspend all business activities; and (3) that EPA was granted exclusive access to the WCC site. The commenter also reserved the right to supplement his comments as additional information becomes known.

EPA has placed Mr. Scagnelli's comments in the docket. However, as these comments have no effect on EPA's basis (section 425(c)(3) of the NCP) for listing the site, EPA has not otherwise responded to the comment except to update the narrative summary to include information provided by the commenter. EPA cannot change already existing documents, as the commenter requested.

IV. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to inclusion on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of today's final rule adding one new site to the NPL, and finds that the kinds of economic effects associated with this revision are generally similar to those identified in the regulatory impact analysis (RIA) prepared in 1982 for revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when amendments to the NCP were proposed

(50 FR 5882, February 12, 1985). This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Costs

EPA has determined that this final rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to the site included in this final rulemaking. The listing of a site on the NPL may be followed by a search for potentially responsible parties and a Remedial Investigation/Feasibility Study (RI/FS) to determine if remedial actions will be undertaken at a site. The selection of a remedial alternative, and design and construction of that alternative, follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

EPA initially bears costs associated with responsible party searches. Responsible parties may enter into consent orders or agreements to conduct or pay the costs of the RI/FS, remedial design and construction, and O&M, or EPA and the States may share costs up front and subsequently bring an action for cost recovery.

The State's share of site cleanup costs for Fund-financed actions is governed by CERCLA section 104. For privately-owned sites, as well as at publicly-owned but not publicly-operated sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs of the remedial action, leaving 10% to the State. For publicly-operated sites, the State's share is at least 50% of all response costs at the site, including the RI/FS and remedial design and construction of the remedial action selected. After the remedy is built, costs fall into two categories:

- For restoration of ground water and surface water, EPA will share in startup costs according to the ownership criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years.
- For other cleanups, EPA will share the cost of a remedy until it is operational and functional, which generally occurs after one year. 40 CFR 300.435(f)(2), 300.510(c)(2). After that, the State assumes all O&M costs. 40 CFR 300.510(c)(1).

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average-per-site and total cost basis. EPA will continue with this approach, using the most recent (1988) cost estimates available; these estimates are presented below. However, costs for individual sites vary widely, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Average total cost per site [1]
RI/FS	$1,300,000
Remedial design	1,500,000
Remedial action	[2] 25,000,000
Not present value of O&M [3]	[2] 3,770,000

[1] 1988 U.S. Dollars.
[2] Includes State cost-share.
[3] Assumes cost of O&M over 30 years, $400,000 for the first year and 10% discount rate.

Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA, Washington, DC.

The WCC site is privately-owned. Therefore, costs to the State associated with today's final rule could arise from the required State cost-share of 10% of remedial actions and 10% of first-year O&M costs at privately-owned sites. The State will assume the cost for O&M after EPA's period of participation. Using the budget projections presented above, the cost to the State of undertaking Federal remedial planning and actions, but excluding O&M costs, would be approximately $2.5 million. State O&M costs cannot be accurately determined because EPA, as noted above, will share O&M costs for up to 10 years for restoration of ground water and surface water, and it is not known if this site will require this treatment and for how long. However, based on past experience, EPA believes a reasonable estimate is that it will share startup costs for up to 10 years at 25% of sites. As with the EPA share of costs, portions of the State share will be borne by responsible parties.

Proposing a hazardous waste site for the NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, these effects cannot be precisely estimated. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

Economy-wide effects of this final rule are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and the State, the total impact of this rule on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The benefits associated with today's final rule placing the WCC site on the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL can accelerate privately-financed, voluntary cleanup efforts. Listing sites as national priority targets also may give States increased support for funding responses at particular sites.

As a result of the additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate before the RI/FS is completed at this site.

Associated with the costs are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that funds expended for a response generate employment, directly or indirectly (through purchased materials).

V. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government

jurisdictions, and nonprofit organizations.

While this rule revises the NCP, it is not a typical regulatory change since the revision does not automatically impose costs. As stated above, adding sites to the NPL does not in itself require any action by any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected business nor estimate the number of small businesses that might also be affected.

The Agency does expect that CERCLA actions could significantly affect certain industries, and firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of this site to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including not only the firm's contribution to the problem, but also its ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: September 18, 1991.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

PART 300—[AMENDED]

40 CFR part 300 is amended as follows:

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 11735, 38 FR 21243; E.O. 12580, 52 FR 2923.

Appendix B—[Amended]

2. The first table in appendix B of part 300 is amended by adding an entry in Group 22 to the end of the table to read as follows:

NPL rank	EPA reg.	State	Site name	City/county
* * *	*	*	*	*
Group 22 (HRS scores 28.90-28.50, except for health-advisory sites):				
* * *	*	*	*	*
1069	02	NJ	White Chemical Corp.	Newark/Essex

* * * * *

[FR Doc. 91-22965 Filed 9-24-91; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 87-389; FCC 91-277]

Operation of Radio Frequency Devices Without an Individual License; Linear Petition for Reconsideration

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission is denying the petition filed by Linear Corporation on May 17, 1989, requesting partial reconsideration and clarification of the First Report and Order (R&O), 54 FR 17710, April 25, 1989, as it relates to the number of restricted bands and the required measurements above 2 GHz for control and security alarm devices. The Commission finds that the restricted bands and measurement requirements specified in the new part 15 rules are appropriate and necessary to protect the authorized radio services from interference caused by the operation of non-licensed radio frequency equipment and that the changes requested by Linear are not warranted.

EFFECTIVE DATE: September 25, 1991.

FOR FURTHER INFORMATION CONTACT: George Harenberg, Technical Standards Branch, Office of Engineering and Technology (202) 653–7314.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum, Opinion and Order (MO&O) in Gen. Docket No. 87–389, FCC 91–277, adopted on September 9, 1991 and released on September 20, 1991.

The full text of this MO&O is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center (202) 452–1422, 1114 21st Street, NW., Washington, DC 20036.

Summary of Notice

1. In the R&O, the Commission adopted a comprehensive revision of part 15 of the rules. The objective of this revision was to encourage more effective use of the radio frequency spectrum by providing additional technical and operational flexibility in the design, manufacture and use of non-licensed devices. As part of this revision, the Commission increased the number of frequencies available for the operation of part 15 intentional radiators and established a number of frequency bands where emissions from part 15 intentional radiators are restricted. These restricted bands were established to protect against interference to services involving safety-of-life, U.S. Government operations and services that use very low received signal levels. Further, the Commission established strict limits for spurious, including harmonic, emissions from such devices that fall in the restricted bands. In order to ensure that emissions in the restricted bands are attenuated as required and to provide additional protection to authorized services against interference from part 15 devices, the Commission also increased the frequency range over which measurements must be performed for most part 15 transmitters. 47 CFR 15.33(a) of the new rules requires measurements to at least the tenth harmonic of the device's highest operating frequency or 40 GHz, whichever is lower. To allow manufacturers sufficient time to incorporate these changes, the